

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION

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U.S. DISTRICT COURT
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PYROTEK, INC.

Plaintiffs,

v.

MOLTEN METAL EQUIPMENT
INNOVATIONS, INC.

Defendants.

COMPLAINT

(JURY TRIAL)

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COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Pyrotek Inc. ("Pyrotek"), through its counsel, hereby submits its
complaint for patent infringement against Molten Metal Equipment Innovations, Inc. ("MMEI")
and alleges as follows:

THE PARTIES

1. Pyrotek is a corporation with its headquarters and principle place of
business at 9503 East Montgomery Ave., Spokane, WA 99206.
2. Upon information and belief, MMEI is a corporation organized and
existing under the laws of the State of Ohio, having its headquarters and principle place of
business at 16286 Nauvoo Road, Middlefield, Ohio 44062.

JURISDICTION AND VENUE

3. Pyrotek's claims against MMEI arise under the Patent Laws of the United
States, 35 U.S.C. § 1 *et seq.*

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b)(1) and 1400(b) because MMEI sells and offers for sale infringing products to one or more customers and/or prospective customers in this District.

GENERAL ALLEGATIONS

6. Pyrotek is a world leading supplier of consumable products for the aluminum, glass, and steel industries. These products include pumps used for pumping molten metal and replacement parts for such pumps.

7. Pyrotek owns significant proprietary rights concerning molten metal pump technology, including several United States Patents.

INFRINGEMENT COUNT

8. Pyrotek repeats the allegations of Paragraphs 1 through 7 above as if fully set forth herein.

9. On July 28, 1998, United States Patent No. 5,785,494 ("the '494 patent"), entitled "Molten Metal Impeller," was duly and legally issued to Chris T. Vild and Mark A. Bright. Pyrotek is the assignee and owner of the '494 patent, a copy of which is attached to this Complaint as Exhibit A.

10. On June 26, 2001, United States Patent No. 6,250,881 ("the '881 patent"), entitled "Molten Metal Shaft and Impeller Bearing Assembly," was duly and legally issued to

George S. Mordue and Richard S. Henderson. Pyrotek is the assignee and owner of the '881 patent, a copy of which is attached to this Complaint as Exhibit B.

11. On November 28, 1995, United States Patent No. 5,470,201 ("the '201 patent"), entitled "Molten Metal Pump with Vaned Impeller," was duly and legally issued to Ronald E. Gilbert, George S. Mordue and Chris T. Vild. Pyrotek is the assignee and owner of the '201 patent, a copy of which is attached to this Complaint as Exhibit C.

12. On December 24, 1996, United States Patent No. 5,586,863 ("the '863 patent"), entitled "Molten Metal Pump with Vaned Impeller," was duly and legally issued to George S. Mordue and Richard S. Henderson. Pyrotek is the assignee and owner of the '863 patent, a copy of which is attached to this Complaint as Exhibit D.

13. On February 6, 1990, United States Patent No. 4,898,367 ("the '367 patent"), entitled "Inspersing Gas Into Molten Metal," was duly and legally issued to Paul V. Cooper. Pyrotek is the assignee and owner of the '367 patent, a copy of which is attached to this Complaint as Exhibit E.

14. On September 4, 1990, United States Patent No. 4,954,167 ("the '167 patent"), entitled "Inspersing Gas Into Molten Metal," was duly and legally issued to Paul V. Cooper. Pyrotek is the assignee and owner of the '167 patent, a copy of which is attached to this Complaint as Exhibit F.

15. The '494, '881, '201, '863, '367, and '167 patents are collectively referred to herein as the "Patents in Suit."

16. MMEI, by making, using, selling, and/or offering for sale its products, has

infringed the Patents in Suit, either directly, contributorily, or by inducing others to infringe, in violation of 35 U.S.C. § 271.

17. MMEI is presently infringing the Patents in Suit and, unless enjoined by this Court, will continue its infringing conduct.

18. As a result of MMEI's infringing conduct, Pyrotek has been and will be damaged. Consequently, under 35 U.S.C. § 284, Pyrotek is entitled to compensation for those damages from MMEI in an amount that cannot be presently quantified but will be ascertained at trial. Pyrotek is also entitled to an order enjoining MMEI from engaging in its infringing conduct.

19. Pyrotek is informed and believes that MMEI's past and continuing infringement of the Patents in Suit has been, and is, deliberate and willful. As a result, this is an exceptional case warranting an award of treble damages and attorney fees under 35 U.S.C. §§ 284 and 285.

PRAYER FOR RELIEF

WHEREFORE, Pyrotek respectfully requests that the Court enter judgment in its favor and against MMEI on this complaint as follows:

1. Enjoining MMEI and its officers, agents, representatives, assigns, licensees, distributors, employees, related entities, and all those in privity or acting in concert with MMEI from:

a. further infringing, either directly, contributorily, or by way of

inducement, the Patents in Suit; and

b. using, marketing, selling, licensing, offering for sale, or otherwise distributing products that infringe the Patents in Suit.

2. Order MMEI to recall and deliver up for destruction all infringing goods.
3. Award compensatory damages to Pyrotek according to proof at trial.
4. Award enhanced damages to Pyrotek of up to three times the amount of compensatory damages determined at trial as a result of MMEI's willful infringement.
5. Award to Pyrotek the costs of this suit and its attorney fees incurred as a result of this action.
6. Grant such other relief as the Court deems just and proper.

JURY DEMAND

Plaintiff, Pyrotek Inc. respectfully requests a jury trial on all issues properly triable to a jury.

Dated: April 27, 2005

Respectfully Submitted,

By: 
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